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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/859,660	05/16/2001	Guy Eden	SLA 1014	3934

7590 04/29/2005

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EXAMINER

REFAI, RAMSEY

ART UNIT	PAPER NUMBER
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2154

DATE MAILED: 04/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action
Before the Filing of an Appeal Brief

Application No.

09/859,660

Applicant(s)

EDEN, GUY

Examiner

Ramsey Refai

Art Unit

2154

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 14 April 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☐ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: None.
Claim(s) objected to: None.
Claim(s) rejected: 1-6, 8-20 and 22-26.
Claim(s) withdrawn from consideration: None.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____.
13. ☐ Other: _____.

JOHN FOLLANSBEE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100

Continuation of 11.

Applicant arguments have been considered but are not persuasive.

The affidavit under 37 CFR 1.132 filed October 20, 2004 is insufficient to overcome the rejection of claims 1 and 16 based upon rejection under 35 U.S.C. 102 (b) as being unpatentable over AAPA, claims 2-7, 9-15, and 17-26 based upon rejection under 35 U.S.C. 103(a) as being unpatentable over AAPA in view of Knodt et al and claim 8 based upon rejection under 35 U.S.C. 103(a) as being unpatentable over AAPA in view of Knodt et al and in further view of Bahlmann as set forth in the last Office action because the affidavit is only Mr. Sridhar Dathathraya's opinion and not based on factual evidence. Mr. Dathathraya's opinion is that "Knodt did not describe any type of discovery mechanism". The Knodt reference was used as a secondary reference to show building the GUI in real-time in response to querying device user interface command, the element that AAPA failed to show. Mr. Dathathraya's arguments regarding the combining of references and other arguments are unpersuasive and are similar to that of the applicant's, thus merit the same response.

Applicant is arguing that:

- A. the claimed invention GUI is built before queries are sent out to the network-connected devices;
- B. the claim recites that an availability GUI is built, then devices are checked for their availability
- C. devices are initially represented in the availability GUI, before the query process is begun, without determining the device's true availability status;
- D. the claim should be read as written, that a GUI is built representing device availability and following the GUI build, querying the devices to determine their (actual) availability;
- E. Knodt never discusses how network devices are depicted on the screen before the system determines if the devices are actually accessible nor does Knodt describe a screen updating process in the context of network discovery;
- F. Bahlmann does not specifically address network discovery;
- G. One skilled in the art would not be motivated to combine AAPA and Knodt;

In reply to argument:

A. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., GUI is built before queries are sent out) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

B. The examiner respectfully disagrees because the claim language does not specifically state that the GUI is built without querying the network devices nor does it state how the GUI checks for availability without querying the network devices, and how a GUI that represents "the availability of known network-connected devices" is built without a way to determine what devices are available to display in the GUI without some type of a query.

C. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e. true availability status) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

D. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., actual availability) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

E and F.

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., Knodt never discusses how network devices are depicted on the screen before the system determines if the devices are actually accessible, Knodt describe a screen updating process in the context of network discovery and Bahlmann does not specifically address network discovery.) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

G. In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, AAPA teaches building a graphical user interface (GUI) that validate network device availability and Knodt teaches a user interface that provides immediate status of an imaging device by displaying at the user interface an indicator of features availability for operation on the imaging device. AAPA teaches that "...there is a need to validate each component's existence every time the program is executed" and one way to do that is in conventional systems that "build the GUI to validate device availability" (paragraphs [0004-0005]). Knodt teaches "it would be desirable, therefore, to present to the user an immediate indication to an operator by displaying at the user interface features available as well as displaying features that are not available for operation" (column 2, lines 25-37). One skilled in the art would be motivated to combine the teachings of AAPA and Knodt because it would create a user interface that can receive an immediate indication to the user of the status of devices on a network.